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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/451,827	11/30/1999	Stephen J. Swartz	8567.121US01	9567

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EXAMINER

AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 04/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/451,827

Applicant(s)

SWARTZ ET AL.

Examiner

Joseph E. Avellino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 November 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-20 are presented for examination.

#### *Specification*

2. The disclosure is objected to because of the following informalities:

Page 72, claim 4: "Shut-down tolls" should be, "Shut-down tools". The Office respectfully requests the Applicant to replace repeated occurrences of this error throughout the specification and claims.

Appropriate correction is required.

#### *Drawings*

3. The drawings are objected to because of objections raised by the Draftsperson. See attached PTO 948 form for details. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5-7, 11-13, 16, 17, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Azarmi et al. (USPN 5,905,715) (hereinafter Azarmi).

5. Referring to claim 1, Azarmi discloses a method for providing an operations architecture to implement a local service activation management system comprising the steps of:

providing a physical environment for supporting a local service activation management system (Figure 20, reference character 163);

managing the physical environment with managing hardware(col. 6, line 58 to col. 7, line 4);

supporting the managing hardware with support infrastructure (Figure 20, reference character 160; col. 7, lines 5-10);

implementing a common integration platform (col. 9, lines 13-43); and

executing operation management procedures selected from the group of operation management procedures (e.g. abstract).

6. Referring to claim 5, Azarmi discloses the integration platform includes common standards (col. 9, lines 30-45), common interfaces (Figure 20), common message formats (protocols) (col. 9, lines 13-30), and common file logging forms (profiles) (col. 10, lines 5-10).

7. Referring to claim 6, Azarmi discloses providing application management tools (e.g. abstract).

8. Claims 7, 11-13, 16, 17, and 20 are rejected for similar reasons as stated above.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-4, 8-10, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azarmi.

11. Referring to claim 2, Azarmi discloses the group of operation management procedures consists of service level agreement generation (col. 7, lines 40-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include disaster recovery, scheduled maintenance, roll outs and release, production control, toolset procedures, operations level agreement generation and service level reporting procedures to the system of Azarmi because these are all distinct properties of SLA and inherently affect the service a customer would receive from the network, therefore they would be monitored and executed by the operations architecture of Azarmi.

12. Referring to claim 3, Azarmi discloses that the managing hardware includes management servers, management controllers, and management consoles (workstations) (col. 6, line 55 to col. 7 line 67). Azarmi does not disclose including probes and sniffers. However using probes and sniffers in managing hardware is well known and expected in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include probes and sniffers to Azarmi to monitor performance and to determine degradation of equipment and possibilities to correct the deficiencies.

13. Referring to claim 4, Azarmi discloses the support infrastructure includes startup tools and recovery tools (e.g. abstract; col. 13, lines 45-57). However Azarmi does not

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specifically say that the support infrastructure includes shutdown tools. It would be obvious to one in the art to include shutdown tools to the system of Azarmi to kill rogue processes which are degrading performance and to optimize memory usage.

14. Claims 8-10, 14, and 15, are rejected for similar reasons as stated above.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azarmi in view of Sigler et al. (USPN 6,477,370) (hereinafter Sigler).

15. Referring to claim 18, Azarmi discloses a system for implementing a local service activation management system as stated in the claims above. Azarmi does not disclose a satellite interface for transmitting and receiving satellite information. Sigler discloses a satellite interface for transmitting and receiving satellite information (Figure 1). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Sigler with Azarmi to increase bandwidth to mobile users and to monitor wireless communications means so efficient SLA can be guaranteed to mobile user subscribers.

16. Referring to claim 19, Azarmi discloses a system for implementing a local service activation management system as stated in the claims above. Azarmi does not disclose a plurality of communication services for relaying information to fixed and mobile stations. Sigler discloses a plurality of communication services for relaying information

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to fixed and mobile stations (Figure 1). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Sigler with Azarmi to increase bandwidth to mobile users and to monitor wireless communications means so efficient SLA can be guaranteed to mobile user subscribers.

### ***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
18. Tams et al. (USPN 6,279,037) discloses collecting, storing, processing, and using network traffic data.
19. Sugauchi et al. (USPN 6,339,789) discloses a network management tool.
20. Reps et al. (USPN 6,070,190) discloses a client-based application availability and response monitoring and reporting for distributing computing environments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (703) 305-7855. The examiner can normally be reached on Monday-Friday 7:00-4:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703) 308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

JEA  
March 24, 2003



**DAVID WILEY**  
**SUPERVISORY PATENT EXAMINER**  
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